

TRJ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|----------------------------------|---|-------------------|
| In re Application of: |) | ATTY'S DKT: |
| HIRAHARA et al. |) | HIRAHARA1 |
| |) | |
| |) | Art Unit: 3623 |
| Appln. No.: 09/668,296 |) | |
| |) | Washington, D.C. |
| Filed: September 25, 2000 |) | |
| |) | Ex: E. Shaffer |
| For: VISITING PLAN GENERATION... |) | |
| |) | February 25, 2005 |

PETITION TO VACATE HOLDING OF ABANDONMENT¹

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop
401 Dulany Street
Alexandria, VA 22314

Sir:

Applicant is in receipt of the Notice of Abandonment, mailed January 26, 2005, which **erroneously** states that the application is abandoned because of applicant's failure to file a response within the time period established by the Office Action mailed June 15, 2004.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

¹ If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

THE FACTS

Applicant timely and properly responded within the time period established by the Office Action dated by timely filing a Request for Continued Examination (RCE) with two months' extension of time on November 5, 2004.

As evidence that such response was timely and properly filed on November 5, 2004, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on November 5, 2004.

As it appears that the response filed on November 5, 2004, has been lost by and in the PTO, attached hereto is a duplicate signed copy of the response [entitled "Request for Continued Examination (RCE) Transmittal"] dated November 5, 2004, and related papers. **However, as the fee for has already been paid, this executed copy is not to be taken as authorization to charge said extension of time fee. No further fees are required at this time.**

REMARKS

In view of the above evidence, it is clear that a response was timely and properly filed within the time period established by the Office Action mailed on June 15, 2004, and that the Notice of Abandonment has been issued in error.

Petition in re appln. no. 09/668,296

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February 25, 2005

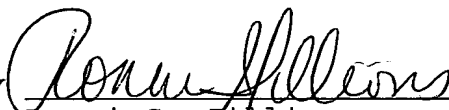
Indeed, the postcard by itself should be sufficient, as MPEP

Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

It accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

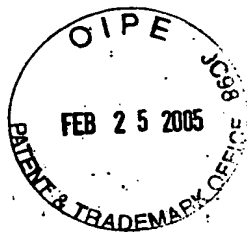
By 
Ronni S. Jillions
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RSJ:edg

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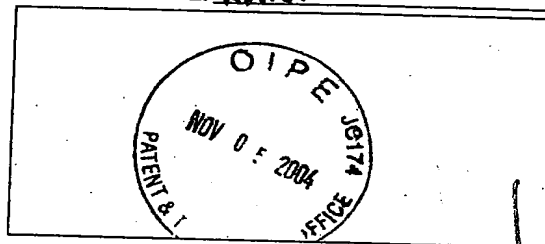


APPLICATION/PATENT NO: 09/668,296
DOCKET NO: HIRAHARA-1

CONF. NO.: 1273
CLIENT CODE: KANF

THE PATENT AND TRADEMARK OFFICE STAMP
HEREON ACKNOWLEDGES RECEIPT OF THE
FOLLOWING PAPERS:

- ☒ FEES \$ 1,220.00 PTO FORM 2038
☒ EXTENSION OF TIME (2 MONTHS)
☐ TRANSMITTAL LETTER
☐ MISSING PARTS RESPONSE WITH DECL
☐ AMENDMENT/RESPONSE (circle one)
☐ PRELIMINARY ☐ SUPPLEMENTAL
☐ APPLICATION DATA SHEET
☐ RESTRICTION/ELECTION REPLY
☐ SEQUENCE LISTING ☐ WITH DISK
☒ RCE TRANSMITTAL
☐ REQUEST FOR STATUS
☐ NOTICE OF APPEAL
☐ APPEAL BRIEF/REPLY BRIEF (TRIPPLICATE)
☐ REQUEST & CERTIFICATE OF CORRECTION
☐ OTHER _____



- ☐ ASSIGNMENT
☐ INFORMATION DISCLOSURE STATEMENT
☐ FORM SB08A & _____ PATENTS/PUBS
☐ PRIORITY DOCUMENT(S) NO. _____
☐ DECLARATION UNDER § _____
☐ _____ SHEETS OF FORMAL DRAWINGS
☐ ISSUE FEE TRANSMITTAL FORM
☐ PUBLICATION FEE
☐ MAINTENANCE FEE LETTER

B&N-1

BEST AVAILABLE COPY

Appro.

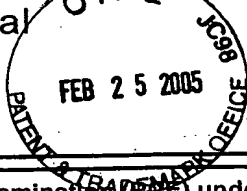
Use through 04/30/2003. OMB 0651-00

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Request For Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450A



| | |
|------------------------|-----------------------|
| Application Number | 09/668,296 |
| Filing Date | September 25, 2000 |
| First Named Inventor | Makoto HIRAHARA et al |
| Group Art Unit | 3623 |
| Examiner Name | E.T. SHAFFER |
| Attorney Docket Number | HIRAHARA=1 |

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to USPTO) on page 2.

1. Submission required under 37 C.F.R. § 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☐ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required).
- b. ☐ Other _____

3. Fees

The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when RCE is filed.

- a. ☐ The director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 02-4035
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17) (☐ \$ _____ already paid for _____ month(s) extension of time on _____)
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$ _____ enclosed (Check No. _____)
- c. ☒ Credit card (Form PTO-2038 enclosed) authorized in the amount of \$ 1,220.00
- WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**
- d. ☒ Provisional extension of time if needed. Applicants authorize any charge of additional fees (except issue fee) which may be required in connection with this application to Deposit Account No. 02-4035.

SIGNATURE OF APPLICANT, ATTORNEY, AGENT REQUIRED

| | | | |
|-------------------|--------------------------|-----------------------------------|---------|
| Name (Print/Type) | Ronni S. Jillions | Registration No. (Attorney/Agent) | 31,979 |
| Signature | <i>Ronni S. Jillions</i> | Date | 11/5/04 |

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

| | | | |
|-------------------|--|-----------------------------------|--|
| Name (Print/Type) | | Registration No. (Attorney/Agent) | |
| Signature | | Date | |

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2.